IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

WP(Crl.).No. 50 of 2007()

PETITIONER:

J. NIXON, AGED 43 YEARS,
S/O. JOSEPH, PANAYIL PUTHEN VEEDU, CHEMMAKKADU,
PERINAD P.O., KOLLAM.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT SUPERINTENDENT OF POLICE,
KOLLAM.

3. THE CIRCLE INSPECTOR OF POLICE,
EZHUKONE, KOLLAM.

4. THE SUB INSPECTOR OF POLICE,
EZHUKONE, KOLLAM.

5. ABDUL GAFOOR ALIAS KUNJAMBU,
KAMBALATHU VEEDU, CHERUVADI P.O., MAVOOR,KOZHIKODE

R1 TO R4 BY GOVERNMENT PLEADER SHRI P.A. SALIM

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1-TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT DATED 8.12.2006

EXT.P2-TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.501/2006 OF EZHUKONE POLICE, DATED 9.12.2006.

// TRUE COPY //

P.S. TO JUDGE

K. Balakrishnan Nair &
T.R. Ramachandran Nair, JJ.

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W.P.(Crl).NO.50 of 2007-S

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Dated this the 1st day of October, 2007

JUDGMENT

Balakrishnan Nair J.

The petitioner has approached this court alleging that the fifth respondent has abducted his wife and minor child. They are under the said respondent's illegal custody. Therefore, he prayed for issuance of a writ of Habeas Corpus against the respondents for the production of his wife and child.

2. The second respondent has filed a report in which it is submitted that the petitioner's wife went away voluntarily with the 5th respondent taking along with her the younger child also. The petitioner's mother-in-law has also given a statement stating that the wife of the petitioner left from her residence in his presence, openly declaring that she propose to live with the 5th respondent. So, there is no illegal detention of the wife of the petitioner and the child, it is submitted.

3. The petitioner has not filed any reply affidavit. Having regard to the facts disclosed by the statement of the petitioner's mother-in-law, we feel that the petitioner's wife is not under the illegal detention of the 5th

respondent. We notice that the police has already registered a crime for man missing.

Since we are of the view that the petitioner's wife and child are not in illegal detention, the writ petition is dismissed. If the petitioner wants the custody of the child, he may move the Family Court.

(K. Balakrishnan Nair, Judge.)

(T.R. Ramachandran Nair, Judge.)

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